IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Bail Appl..No. 4185 of 2007(M)

CRIME NO.76/07 OF KARUVARAKUNDU POLICE STATION

: PETITIONERS/ACCUSED 1 TO 2:

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1. MUHAMMAD P.T., S/O. MOOSA,
   PADINJAREPURACKAL HOUSE, TUVOOR P.O.,MALAPPURAM.

2. MYMOONA, W/O. MUHAMMAD P.T.,
   PADINJAREPURACKAL HOUSE, TUVOOR P.O.,MALAPPURAM.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: STATE:

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1. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. STATION HOUSE OFFICER,
   KARUVARAKUNDU POLICE STATION, MALAPPURAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4185 of 2007

Dated this the 11th day of July, 2007

ORDER

Application for anticipatory bail. Petitioners are the husband and the 2nd wife of the husband of the defacto complainant. They face allegations, inter alia, under Section 498 A and Section 324 I.P.C. The defacto complainant was married 10 years back. The 2nd petitioner was married by the 1st petitioner about 1 ½ years back. Obviously there is strain in the matrimony. The 1st petitioner has children through both wives. The crux of the allegations is that the petitioners assaulted the defacto complainant and indulged in matrimonial cruelty against her. Allegations under Section 324 I.P.C is raised alleging that the defacto complainant was beaten with slippers. No serious injury has been suffered, though the defacto complainant is shown to have gone to the hospital, where she gave F.I statement to the police.

2. The learned counsel for the petitioners submits that the allegations raised are false and untenable. Because of the strain in the matrimony and the second marriage that the 1st petitioner had contracted with the 2nd petitioner, false allegations are being raised against both the petitioners by the defacto complainant. The petitioners are prepared to abide by any conditions. Anticipatory bail may, in these circumstances, be granted to them, it is prayed.

3. The application is opposed by the learned Public Prosecutor. But notwithstanding the opposition of the learned Public Prosecutor, having considered all the relevant inputs, I am satisfied that this is a fit case where directions under Section 438 Cr.P.C can be issued in favour of the petitioners. Conditions which shall ensure the interests of a fair, efficient and expeditious investigation can, of course, be imposed.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 18.07.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 19.07.2007 & 20.07.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 18.07.07 as directed in clause (1) above, they shall be released on bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 18.07.07.

(R.BASANT, JUDGE)

rtr/-